

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SCOTT C. SMITH,

Plaintiff,

v.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS et al.,

Defendants.

CASE NO. C13-5138 RBL-JRC

REPORT AND RECOMMENDATION

**NOTED FOR:
DECEMBER 6, 2013**

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creature. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and Magistrate Judge Rules MJR3 and MJR4.

Plaintiff asks the Court for leave to proceed in forma pauperis with an interlocutory appeal (ECF No. 73). The Court recommends denying this motion because plaintiff has not provided the Court with a current accounting or shown the Court the amount available to him in his other prison accounts.

1 The Court's record discloses that plaintiff was infracted for allegedly misrepresenting his
2 financial situation to a Superior Court when seeking in forma pauperis status (ECF No. 51). The
3 infracting officer alleged that plaintiff had control over a seventeen thousand dollar inheritance,
4 had settled a case for five hundred dollars and had over four hundred dollars in his "postage"
5 account (ECF No. 51). Plaintiff disclosed to the Superior Court that he had received a "small"
6 inheritance, but he did not disclose the amount of funds he controlled. Until plaintiff provides a
7 full accounting to the Court, including a prison trust statement that shows all prison accounts and
8 current balances, and a statement of how much money is left from his inheritance, the Court will
9 not recommend he receive in forma pauperis status.

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of de novo review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on December 6, 2013, as noted in the caption.

16 Dated this 15th day of November, 2013.


J. Richard Creature
United States Magistrate Judge